Management Training Corporation[1] (Formerly Thiokol Corporation) *and* General Teamsters, Cannery Workers, Food and Merchandise Handlers, Local Union 976, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Independent. Cases 27-CA-6573 and 27-RC-5940

April 3, 1982

DECISION, ORDER, AND DIRECTION OF SECOND ELECTION

BY MEMBERS FANNING, JENKINS, AND ZIMMERMAN

On February 2, 1981, Administrative Law Judge Gerald W. Wacknov issued the attached Decision in this proceeding. Thereafter, the Respondent filed exceptions and a supporting brief, and the General Counsel filed a reply brief and a brief in support of the Decision.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings,[2] and conclusions of the Administrative Law Judge,[3] and to adopt his recommended Order,[4] as modified herein.

[1] The Respondent's unopposed motion to change its name is hereby granted.

[2] The Respondent has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an administrative law judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. *Standard Dry Wall Products, Inc.*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing his findings.

[3] In adopting the Administrative Law Judge's Decision, we note that the Respondent's policies of promoting employees as vacancies occurred and of granting annual merit increases, albeit of differing amounts, had been in effect and routinely implemented for a number of years. The Respondent's only discretion involved the selection of employees to receive the promotions and benefits, not whether to grant them. Thus, in regard to the voting unit in Case 27-RC-5961, the Respondent's withholding of these promotions and benefits, combined with its statements to the effect that if the Union lost the election they would be granted immediately, but if the Union won they would be deferred indefinitely, or possibly never received, violated Sec. 8(a)(3) and (1) of the Act.

Additionally, while we agree with the Administrative Law Judge's finding regarding Supervisor Elizondo's statement about the proposed 8-percent wage increase, we also find that the remark was an implied promise of benefit. Thus, shortly before the election, in response to an employee's complaint about inadequate wages, Elizondo's statement indicated that the employees would receive higher wages without the necessity of a union.

[4] In par. 1(d) of his recommended Order, the Administrative Law Judge included a broad cease-and-desist order against the Respondent. As the General Counsel has not demonstrated that the Respondent has a proclivity to violate the Act, or that the Respondent has engaged in such widespread or egregious misconduct as to demonstrate a general disregard for employees' fundamental statutory rights, a broad order is not warranted here. *Hickmott Foods, Inc.*, 242 NLRB 1357 (1979). Accordingly, we will modify the Administrative Law Judge's recommended Order by substituting narrow cease-and-desist language for the broad language used by the Administrative Law Judge.

AMENDED CONCLUSIONS OF LAW

Insert the following as paragraph 6 and renumber the remaining paragraph:

"6. By impliedly promising benefits if the Union should lose the election, the Respondent violated Section 8(a)(1) of the Act."

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge, as modified below, and hereby orders that the Respondent, Management Training Corporation, Clearfield, Utah, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order, as so modified:

1. Delete paragraph 1(d) and insert the following:

"(d) Impliedly promising benefits if the Union should lose the election."

2. Insert the following as paragraph 1(e):

"(e) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the National Labor Relations Act, as amended."

3. Substitute the attached notice for that of the Administrative Law Judge.

IT IS FURTHER ORDERED that the election in Case 27-RC-5940 be, and it hereby is, set aside, and that said case be, and it hereby is, remanded to the Regional Director for Region 27 to conduct a new election when he deems the circumstances permit the free choice of a bargaining representative.

[Direction of Second Election and *Excelsior* footnote omitted from publication.]

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

After a hearing at which all sides had an opportunity to present evidence and state their positions, the National Labor Relations Board found that we have violated the National Labor Relations Act, as amended, and has ordered us to post this notice.

The Act gives employees the following rights:

To engage in self-organization

To form, join, or assist any union

To bargain collectively through representatives of their own choice

To engage in activities together for the purpose of collective bargaining or other mutual aid or protection

To refrain from the exercise of any or all such activities.

WE WILL NOT threaten to withhold promotions, merit increases, and Christmas bonuses from you because of the pendency of a representation petition.

WE WILL NOT withhold promotions, merit increases, and Christmas bonuses from you because of the pendency of a representation petition.

WE WILL NOT impliedly promise benefits if the Union should lose the election.

WE WILL NOT interrogate you regarding your union activity and WE WILL NOT threaten you with more stringent working conditions and the withholding of regular wage increases should you select the Union as your collective-bargaining representative.

WE WILL NOT, in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them in Section 7 of the Act.

WE WILL grant all such benefits which we would have granted in 1979 and 1980 but for the representation petition, retroactively, and with interest.

MANAGEMENT TRAINING CORPORATION

DECISION

STATEMENT OF THE CASE

GERALD A. WACKNOV, Administrative Law Judge: Pursuant to notice, a hearing with respect to this matter was held before me in Ogden, Utah, on July 22, 23, and 24, and August 11 and 12, 1980. The charge in Case 27-CA-6573 was filed on February 11, 1980, by General Teamsters, Cannery Workers, Food and Merchandise Handlers, Local Union 976, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Independent (herein called the Union). Thereafter, on February 27, 1980, the Regional Director for Region 27 of the National Labor Relations Board (herein called the Board) issued a complaint and notice of hearing alleging a violation by Thiokol Corporation (herein called Respondent) of Section 8(a)(1) and (3) of the National Labor Relations Act, as amended (herein called the Act).

Pursuant to a representation petition filed by the Union in Case 27-RC-5940, an election was conducted on December 13 and 14, 1979.[1] The tally of ballots reflects that of the approximately 239 eligible employees in combined Voting Groups A and B, 89 cast ballots for the Union and 128 cast ballots against the Union; and that of the approximately 48 eligible employees in Voting Group C, 22 cast ballots for the Union and 26 cast ballots against the Union. Thereafter, the Union filed timely objections to the election, which objections, on February 28, 1980, were consolidated with the unfair labor practice proceeding for the purpose of hearing, ruling, and decision by an Administrative Law Judge.

The parties were afforded a full opportunity to be heard, to call, examine and cross-examine witnesses and to introduce relevant evidence. Since the close of the hearings briefs have been received from the General Counsel and counsel for Respondent.

Upon the entire record, and based upon my observation of the witnesses and consideration of the briefs submitted, I make the following:

FINDINGS OF FACT

I. JURISDICTION

Respondent is a Virginia corporation and operates a job training facility in Clearfield, Utah, for the United States Department of Labor. In the course and conduct of its business operations at Clearfield, Utah, Respondent annually purchases and receives goods and materials valued in excess of $50,000 directly from suppliers located outside the State of Utah.

Respondent acknowledges that the jurisdictional facts relied on by the Regional Director in his Decision and Direction of Election in Case 27-RC-5940, issued on November 21, are accurately set forth therein, but maintains that the Regional Director was nevertheless incorrect in determining that the Respondent was subject to the Board's jurisdiction. Having reviewed the jurisdictional issue as fully explicated in the Regional Director's decision and in the parties, briefs,[2] it is clear that the Board's decision in *The Singer Company Education Division, Career Systems, Detroit Job Corps Center*, 240 NLRB 965 (1979), in which the Board found that it will effectuate the purposes of the Act to assert jurisdiction over the operation of job corps training centers such as Respondent operates, is dispositive of the issue herein. I therefore find that Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act, as alleged.

II. THE LABOR ORGANIZATION INVOLVED

It is admitted and I find that the Union is a labor organization within the meaning of Section 2(5) of the Act.

[1] All dates or time periods herein are within 1979 unless stated to be otherwise.

[2] It appears unnecessary to recount the jurisdictional facts which are a part of the record herein.

III. THE UNFAIR LABOR PRACTICES AND ELECTION OBJECTIONS

A. *The Issues*

The principal issues raised by the pleadings are whether Respondent violated Section 8(a)(1) and (3) of the Act by threatening to withhold and by withholding fringe benefits; whether supervisors or agents of Respondent unlawfully interrogated and threatened employees; and whether, as a result thereof, certain election objections should be sustained and a new election directed.

B. *The Facts*

1. Threats and interrogation

Jayann Goodman, a current employee, testified that on the morning of the election, she and Terry Spinden, confidential secretary to Mose Watkins, Respondent's director, were working together in the medical records room. During a discussion regarding their respective union sentiments, Goodman made a remark about Spinden's "Vote No" button and told Spinden that she believed some kind of representation was needed but perhaps not the Teamsters. Spinden replied that she was sure the employees did not need the Teamsters because, if they voted the Union in, the company would install timeclocks and the employees, including Spinden, would have to clock in and out. Spinden further indicated that she found timeclocks undesirable. Goodman answered that she was not afraid of a timeclock.

Spinden testified that as executive secretary to Respondent's director, she performs general secretarial duties but she has nothing to do with the hiring, discharging, or evaluation of employees. She does contact employees, however, on a daily basis, as directed by Watkins, in regard to student and operational problems. The record indicates that Spinden frequently works with Goodman, and Spinden recalled a conversation which, she admits, may have occurred on the morning of the election, wherein Goodman asked whether Watkins on management would install timeclocks if the Union was voted in. She replied that Mr. Watkins did not have the power to install timeclocks and added that although she hoped this would not happen she did not know what management would do.

Nalsene Johnson, a clerk typist, testified that, on the morning of the election, she received a phone call from Supervisor Jerry Bond, manager of residential living. Johnson had had several previous phone conversations with Bond and was certain of her identification of his voice. According to Johnson, Bond stated that he knew he was disobeying company regulations about discussing the Union with employees on the day of the election, but that he believed the company deserved another chance and asked how Johnson felt about it. Johnson replied that she and other employees were dissatisfied with the low wages and that Respondent had exhibited prejudice toward employees. Bond, according to Johnson, answered that if the Union got in there would still be low wages, the problems would be the same, and management would be more strict with the employees. Bond concluded the conversation by stating, "I understand your point of view but I think that management deserves another chance." Thereafter, Johnson made notes of the conversation and reported it to her supervisor, Frank Nielson, who apparently advised Johnson that Bond's remarks were not improper.

Bond testified that he has known Johnson for about 2 years. He denied that he had any phone conversation with Johnson regarding the Union, but recalls that about a month prior to the election, as he and Johnson were leaving the gym, Johnson expressed various concerns, including dissatisfaction with her wages and stated that management was running scared because of the Union.

Several weeks later, according to Bond, a similar conversation occurred in the office. Bond asked Johnson how she was and whether things were better than the last time they had talked. Thereupon, Johnson again expressed dissatisfaction with low wages and prejudice on the part of Respondent toward employees and mentioned that she believed Supervisor Nielson was out to get her. Further, she repeated that management was running scared because the employees might select the Union to represent them. Bond replied by pointing out some of the pros and cons of union representation, mentioning that employees would have to pay dues and that fringe benefits would be negotiable. He further suggested that the employees should give Respondent another chance. Bond denies that he said anything about management becoming more strict should the Union become the employees' collective-bargaining representative.

Eldon Jerue, a former employee, testified that several days prior to the election, his supervisor, Michael Elizondo, who had recently returned from a supervisors' meeting, told Jerue that if the Union was voted out the employees would receive an 8-percent blanket pay raise; that he could not be quoted on the subject; and that this amount is what it could take to stop the Union. Thereupon, according to Jerue, Elizondo computed on a calculator the amount of Jerue's potential 8-percent increase.

Supervisor Elizondo, senior automotive instructor, testified that he attended a management meetings sometime during the week of the election, at which meeting the supervisors were briefed regarding, among other things, the possibility of further pay increases. Thereafter, during a casual meeting with Jerue and approximately three other automotive instructors, Jerue began making what Elizondo deemed to be unfounded accusations against Respondent to the effect that the company was not fair to the employees and that the employees were not being adequately paid. This prompted Elizondo to reveal that, as he had recently learned at the management meeting, the company was attempting to help the employees by proposing an 8-percent increase for all job corps center employees at a meeting in Houston attended by various job corps contractors, including Respondent. Elizondo denies that he said that if the Union did not win the election there would be an 8-percent raise for the employees. Later, according to Elizondo, Jerue asked what his 8-percent increase would amount to and Elizondo computed the amount for him on a calculator.

Promotions, merit increases, and the Christmas bonus

Rex Barber, deputy center director, testified that, upon the filing of the petition in Case 27-RC-5940 on about October 15, Respondent decided to withhold certain benefits from those employees who would be encompassed by the petition. Thus, Barber testified as follows:

> It was immediately the company's position that those things . . . bonuses, merit increases, promotions and so forth—that our hands were tied, that they would—that these things would not be granted to those employees who were contained, who were included in the proposed units.
>
> . . . we felt that . . . if we did grant these things, that this could be construed as an attempt to buy off the employees who were involved and could very well be considered a violation of the NLRB rules and regulations.

This position was disseminated to Respondent's supervisors and, in turn, was passed on to the employees.

Barber further testified that during a conversation with employee Carolyn Duncan, about a week prior to the December 13 election, Duncan asked whether or not she would receive her Christmas bonus if the Union was voted in. He replied to Duncan as follows:

> That if a unit was established, that all fringe benefits, including the bonuses were subject to the give and take of collective bargaining; that the Union then became the representative of the employees that were in the unit; and Thiokol's hands were tied insofar as what they could do until such time as the negotiations were completed.
>
> And I'm sure the impression was left that—although I did not state specifically, I'm sure the impression was left that, no, you won't get your bonuses on the 14th of December if the unit is established on the 13th. But at no time did I come out and tell her, no, you will not get your bonuses.

Barber further testified that Respondent's managers and supervisors had been responding similarly to employees' questions since the petition had been filed.

During a series of 11 preelection meetings on December 11 and 12, Barber reiterated Respondent's position to its employees. Barber testified as follows:

> In my remarks, I outlined the various fringe benefits that employees had and the Thiokol fringe benefits today, including bonuses, pension, holiday vacation, and so forth; and, then, explained to them that if units were established as a result of the election, that all of these things became negotiable. If units were not established, then it was business as usual.

Following Barber's remarks, copies of a leaflet on fringe benefits were handed out to the employees. The leaflet, entitled "Fringe Benefits" lists, among some 21 benefits, the discretionary yearend (Christmas) bonus and wage increases.

The parties stipulated that employees in the voting unit in Case 27-RC-5940 did not receive promotions during the period from the filing of the Union's petition on October 15 until after the December 13 election. Thereafter, the promotions were granted retroactively. The record indicates that, historically, promotions had not been granted on a scheduled basis but rather occurred only when openings arose.

The parties further stipulated that employees in the voting unit in Case 27-RC-5940 did not receive merit increases during the period from the filing of the petition on October 15 until after the December 13 election. Thereafter, those eligible to receive merit increases were granted the increases retroactive to their original review dates. The record indicates that the amount of the merit increases varied from employee to employee and was subject to the discretion of each emloyee's supervisor, which recommendation was subject to approval, disapproval, or modification.

The yearend or Christmas bonus had been paid every year since Respondent assumed operation of the facility, period of 14 years, and the 1979 Christmas bonus had been approved by Respondent's corporate headquarters for all employees in early December. Such bonuses were based upon salary and length of service.[3] The Christmas bonus was considered "discretionary" in the sense that it was subject to approval each year. However, the formula for determining the amount of the bonus appartently has not varied since its inception.

A separate petition in Case 27-RC-5961, filed on December 7 for a unit consisting of medical department employees, has been pending since that date and is currently pending. As a result, Respondent has chosen to withhold from the medical department employees such 1979 benefits and apparently similar 1980 benefits until after the election, for the same reasons as enunciated by Respondent, above.

C. *Analysis and Conclusions*

1. Promotions, merit increases, and the Christmas bonus

The law is clear that during an organizational campaign or during the pendency of a representation petition, an employer should decide the question of granting or withholding benefits as it would have done in the absence of such election petition or organizational campaign. *The May Department Stores Company d/b/a Famous-Barr Company*, 174 NLRB 770 (1969); *Stumpf Motor Company, Inc.*, 208 NLRB 431, 433 (1974); *The Singer Company, Friden Division*, 199 NLRB 1195 (1972), enfd. 480 F.2d 269 (10th Cir. 1973). However, if an employer is motivated by a desire to avoid the appearance of election interference and would be faced with the dilemma that the granting of a particular benefit prior to

[3] An employee who had been employed for 1 year receives 1 week's pay as a bonus. Employees get an additional day's pay for each year of employment thereafter, to a maximum of 6 years, and thus receive a maximum of 2 weeks or 10 days' pay. A Christmas bonus of $500 is about average for an employee of 6 years.

the election would foreseeably subject the employer to charges of unlawful conduct or the vicissitudes or uncertainty of litigation, the employer may, under certain conditions, postpone the granting of the benefits until after the election. *The Singer Company, Friden Division, supra; Montana Lumber Sales, Inc. (Delaney & Sons Division)*, 185 NLRB 46 (1970); *Uarco, Incorporated*, 169 NLRB 1153 (1968). such withholding of benefits is not permitted, however, where the benefits are pursuant to a fixed practice or pattern which would provide the employer with objective evidence excusing the timing of the granting of such benefits.[4] Thus, under such circumstances, the employees would not reasonably be led to believe that the benefits were, in effect, anticipatory rewards for rejection of the Union.

While the record herein indicates that promotions and merit wage increases may reflect the subjective opinion of Respondent's management regarding the qualifications of specific employees, thereby exposing Respondent to the charge of discriminatory treatment based on employees' union activity, Respondent could have no such reasonably based concern regarding the Christmas bonus. This practice of granting Christmas bonuses had been continuing for the past 14 years[5] and, insofar as the record shows, the bonus had always been granted within the 2-week period prior to Christmas in accordance with an unvarying formula predicated upon each employee's length of service. Under such circumstances, Respondent was armed with overwhelming objective evidence showing that the Christmas bonus was not designed to unlawfully influence employees' votes. As there appears to be no rational basis for threatening to withhold or withholding this bonus from employees,[6] and as such conduct has an obviously significant impact upon employees' selection of a collective-bargaining representative, I find that by such conduct Respondent has violated the Act as alleged.

Moreover, while an employer is, within certain prescribed guidelines, noted above, privileged to defer or postpone the conferral of benefits until after the election, such benefits to which the employees are entitled are not, by operation of law, thereafter relegated to the collective-bargaining process, but rather must be conferred as conditions of employment which the employer is legally obligated to continue. Thus, by threatening the discontinuation of any form of wages or conditions of employment to which the employees have become entitled, such as the promotions, merit increases and Christmas bonus, herein, and to defer the granting of such benefits to the collective-bargaining process, Respondent has violated Section 8(a)(1) of the Act. Moreover, by threatening to withhold and by withholding such benefits from employees encompassed by the pending petition in Case 27-RC-5961, Respondent is violating Section 8(a)(1) and (3) of the Act. I so find. *Montgomery Ward & Co., Incorporated*, 225 NLRB 112, 118 (1976); *W. F. Hall Printing Company*, 239 NLRB 51 (1978); *Baker Brush Co., Inc.*, 233 NLRB 561 (1977); *Florida Steel Corporation*, 220 NLRB 1201 (1975), enfd. 538 F.2d 324 (4th Cir. 1976).

2. Threats and interrogation

I credit the testimony of employee Goodman, who appeared to be a credible witness with a vivid recollection of the conversation in question, and find that on the morning of the election she was advised by Spinden that if the Union won the election Respondent would install timeclocks and the employees would be required to clock in and out.

Although Spinden is not a supervisor, she is confidential secretary to the Center's director and as such was excluded from the unit. In the course of her duties, Spinden relays the instructions and directions of Watkins to employees on a daily basis. It appears that to attribute the conduct of a confidential secretary to an employee, more of a nexus is needed than the mere fact that the secretary transmits or relay messages from management to employees. See *Teledyne Dental Products Corp.*, 210 NLRB 435, 440–441 (1974); *McKinnon Services, Inc.*, 174 NLRB 1141, 1143–44 (1969); *Vitronic, Incorporated*, 183 NLRB 1067, 1073–75 (1970). Therefore, I find that Spinden's statement to Goodman may not, without more, be imputed to Respondent and I shall dismiss this allegation of the complaint.

I credit the testimony of Nalsene Johnson and find that on the morning of the election she received a call from Supervisor Jerry Bond who asked her how she felt about giving Respondent another chance and stated that employees would be adversely affected by a more strict application of work rules should the Union be voted in. Johnson impressed me as a credible witness and was concerned enough about the conversation to immediately report it to her supervisor. Moreover, the record clearly shows that Johnson was very familiar with Bond's voice, having spoken to him in person and telephonically on numerous occasions. I find that Bond's remarks to Johnson constituted unlawful interrogation and a threat of reprisal in violation of the Act, as alleged.

I do not credit employees Jeru and find that he had an inaccurate recollection of the conversation with Supervisor Mike Elizondo regarding the 8-percent wage increase. Rather, I credit the testimony of Elizondo and find that he told Jerue and other employees that Respondnet was attempting to negotiate an 8-percent wage increase, an accurate representation as demonstrated by the record evidence, and that Elizondo did not state that the wage increase was conditioned upon the rejection of the Union. However, Elizondo's remark in this regard must be viewed in the context of Respondent's repeated statements that "business as usual" would prevail only in the event of a union defeat in the forthcoming election. Clearly, then, the employees could have reasonably interpreted Elizondo's remark to mean that the proposed 8-percent wage increase was dependent upon rejection of

[4] See *The Singer Company, Friden Division, supra; Signal Knitting Mills, Inc.*, 237 NLRB 366 (1978); *Waterbury Community Antenna*, 233 NLRB 1312, 1324 (1977), enfd. as modified 587 F.2d 90 (2d Cir. 1978).

[5] As noted above, unit employees in Case 27-RC-5940 received the bonus the day following the election and unit employees in Case 27-RC-5961 have not yet received either the 1979 or 1980 bonus.

[6] It is clear that the Christmas bonus, under the instant circumstances, is considered to be a component of wages or a term of employment. See *Aeronca, Inc.*, 253 NLRB 261 (1980); *Woonsocket Spinning Company*, 252 NLRB 1170 (1980).

the Union. Such a statement, under the circumstances, is violative of Section 8(a)(1) of the Act. I so find.

CONCLUSIONS OF LAW

1. Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. By threatening the withholding of promotions, merit increases, and the Christmas bonus, Respondent has violated Section 8(a)(1) of the Act.

4. By withholding promotions, merit increases, and the Christmas bonus, Respondent has violated and is violating Section 8(a)(1) and (3) of the Act.

5. By interrogating employees regarding their vote in the election and by threatening employees with more stringent working conditions and the withholding of regular wage increases, Respondent has violated Section 8(a)(1) of the Act.

6. Such unfair labor practices found herein, specifically those unfair labor practices in paragraphs 3 and 5, above, are sufficient to establish that Respondent has interfered with the freedom of choice of employees in the election in Case 27-RC-5940, and it is recommended that the election held on December 13, 1979, be set aside and that a second election be directed.

THE REMEDY

Having found that the Respondent violated Section 8(a)(1) and (3) of the Act, I recommend that it be required to cease and desist therefrom and from in any other manner interfering with, restraining, or coercing its employees in the exercise of the rights guaranteed them under Section 7 of the Act. Moreover, Respondent shall be required to post an appropriate notice attached hereto as marked "Appendix."

It shall be further recommended that Respondent grant those promotions, merit increases, and Christmas bonuses to all employees who would have received such benefits had there been no election petition in Case 27-RC-5961, retroactive to the dates they would have been granted, with interest thereon.

Based on the foregoing findings of fact, conclusions of law and the entire record herein, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

ORDER[7]

The Respondent, Thiokol Corporation, Clearfield, Utah, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(1) Threatening employees with the withholding of promotions, merit increases, and the Christmas bonus because of the pendency of a representation petition.

(b) Withholding promotions, merit increases, and Christmas bonuses from employees because of the pendency of a representation petition.

(c) Interrogating employees regarding their union activity and threatening them with more stringent working conditions and the withholding of regular wage increases should they select the Union as their collective-bargaining representative.

(d) In any other manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the National Labor Relations Act, as amended.

2. Take the following affirmative action which is necessary to effectuate the policies of the Act:

(a) Grant those promotions, merit increases, and Christmas bonuses which would have been granted in 1979 and 1980 to all employees who would have received such benefits had there been no election petition in Case 27-RC-5961, retroactive to the dates said benefits would have been granted, with interest thereon.

(b) Post at its Clearfield, Utah, facility, copies of the attached notice marked "Appendix."[8] Copies of said notices, on forms provided by the Regional Director for Region 27, after being duly signed by an authorized representaive of Respondent, shall be posted by Respondent immediately upon receipt thereof and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to ensure that said notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director for Region 27, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply herewith.

IT IS FURTHER ORDERED that the election held on December 13, 1979, in Case 27-RC-5940 be set aside and a new election directed.

[7] In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

[8] In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."